

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT
OF PENNSYLVANIA

* * * * *

B.L., a minor, by *
her father, *
LAWRENCE LEVY, * Case No.
and her mother, * 3:17-CV-1734
BETTY LOU LEVY, *
Plaintiffs *
vs. *
MAHANoy AREA *
SCHOOL DISTRICT, *
Defendant *

* * * * *

DEPOSITION OF

B.L.

October 24, 2018

Any reproduction of this transcript is
prohibited without authorization by
the certifying agency.

EXHIBIT

D - 17

exhibitsticker.com

1 If your lawyer says anything,
2 just stop talking so the court
3 reporter can take it down.

4 Okay?

5 A. Okay.

6 Q. All right.

7 Could you state your full name
8 for the record, please?

9 A. B.L. (states name).

10 Q. And keep your voice up because
11 at my age I need loud voices.

12 Okay?

13 A. Okay.

14 Q. And where do you reside?
15 What's your address?

16 A. 527 East Market Street.

17 Q. Where?

18 A. Mahanoy City.

19 Q. And who do you live there with?

20 A. My parents.

21 Q. Anybody else?

22 A. My brother and sister.

23 Q. And your brother's name is?

24 A. A.J.

25 Q. I didn't hear that.

1 Q. What grade are you in this
2 year?

3 A. Eleventh (11th).

4 Q. So in the 2017-18 school year,
5 you were in tenth.

6 Right?

7 A. Yes.

8 Q. Okay.

9 When does softball play? When
10 is their season?

11 A. It'll like, start around
12 June-ish. Like the practices will be
13 in June.

14 Q. And when are the games?

15 A. They would be in like July,
16 August.

17 Q. So the high school softball
18 team plays during the summer when
19 school is not in session.

20 Is that correct?

21 A. I wasn't on the high school
22 softball team.

23 Q. Were you on the junior middle
24 school softball team?

25 A. No.

1 I was on the one downtown.

2 Q. So the softball team to which
3 you referred in your testimony, that
4 is not a school district softball
5 team.

6 Is that correct?

7 A. Yes.

8 Q. And when you say in town, was
9 it sponsored by Mahanoy City or by an
10 organization in Mahanoy City?

11 Do you know?

12 A. I'm not sure.

13 Q. When is the last time that you
14 played softball for that team?

15 A. I don't remember.

16 Q. Was it when you were in ninth
17 grade? When you were in eighth grade?
18 Can you help us understand when you
19 last played?

20 A. I --- I really don't remember.

21 Q. The Snap --- in front of you is
22 a three ring binder. It has what we
23 call exhibits. Each exhibit is
24 separated by a tab. And Exhibit D-1,
25 that's the Snap that brings us all

1 together this morning; right?

2 Is that correct?

3 ---

4 (Whereupon, Defendant
5 Exhibit 1, Snapchat
6 Picture, was marked for
7 identification.)

8 ---

9 THE WITNESS:

10 Yes.

11 BY ATTORNEY LEVIN:

12 Q. Okay.

13 And that's you in the glasses.
14 You're --- you --- not in the glasses.
15 I can't ---.

16 A. I'm not in the glasses.

17 Q. Not in glasses.

18 And in that Snap it says among
19 other things, quote, fuck softball,
20 end of quote.

21 Do you see that?

22 A. Yes.

23 Q. Okay.

24 Now this Snap you took and sent
25 in May of 2017.

1 Right?

2 A. Yes.

3 Q. So you were in ninth grade.

4 Right?

5 A. I think, yeah.

6 Q. Okay.

7 And did you try out for
8 softball when you were in ninth grade
9 before this Snap was taken?

10 A. I don't know.

11 I don't remember.

12 Q. Why did you say, quote, fuck
13 softball, end of quote, in this Snap?

14 Do you remember?

15 A. No, I don't remember.

16 Q. Okay.

17 Do you have any physical or
18 mental impairment that would prevent
19 you from hearing any questions that
20 I'm asking?

21 A. No.

22 Q. Do you have any physical or
23 mental impairment that would prevent
24 you from understanding any questions I
25 ask?

1 A. No.

2 Q. Do you have any physical or
3 mental impression that would prevent
4 you from giving truthful answers?

5 A. No.

6 Q. Are you taking any medication
7 that would prevent you from hearing or
8 understanding any questions?

9 A. No.

10 Q. Are you taking any medications
11 that would prevent you from giving
12 truthful answers?

13 A. No.

14 Q. What's your date of birth?

15 A. 8/17/02.

16 Q. Did you look at any documents
17 in order to prepare for your
18 deposition today?

19 A. No.

20 Q. Other than your lawyer, did you
21 talk to anyone to prepare for this
22 deposition today?

23 A. No.

24 Q. Have you ever been suspended or
25 expelled from school?

1 Q. Computer apps, what was your
2 final grade?

3 A. High 90's.

4 Q. And gym, what was your final
5 grade?

6 A. 100.

7 Q. Can we agree that the school
8 district's termination of you from the
9 cheerleading squad, did not interfere
10 with your academic performance?

11 A. I would assume not.

12 Q. Now the --- this picture, which
13 has been marked as D-1, why did you
14 send that via Snap?

15 A. I was mad.

16 Q. What were you mad about?

17 A. A lot of stuff.

18 Q. And what are those things that
19 you were mad about?

20 A. I don't remember.

21 I don't remember about softball
22 or at school.

23 Q. You don't remember any of the
24 details?

25 A. No.

1 Q. Is D. on the varsity team or
2 the junior varsity?

3 A. Varsity.

4 Q. And does the cheerleading squad
5 still require people to try out?

6 A. Yes.

7 Q. So D. tried out in the spring
8 of --- when you and D. were in tenth
9 grade?

10 A. It was like May of last school
11 year school year. So yes.

12 Q. So the tryouts are generally in
13 May of the preceding year. So if you
14 want to be in cheerleading in 11th
15 grade, you try out in May of 10th
16 grade.

17 Right?

18 A. Yes.

19 Q. Okay.

20 And when --- who were the
21 judges when you tried out in May of
22 2018?

23 A. We didn't know their names.

24 Q. How many judges were there?

25 A. Around like six or seven.

1 Q. And you don't know who any of
2 those six or seven people were?

3 A. No.

4 We don't get told their names.

5 Q. Are the coaches judges for the
6 tryouts?

7 A. No.

8 Q. Are the coaches in the ---?
9 Well, where are the tryouts conducted?

10 A. Their held in the gym, but we
11 all go in the locker room until, like
12 our specific number is called.

13 Q. All right.

14 Were the coaches in the locker
15 room during the tryouts?

16 A. No. They were in the gym.

17 Q. So the coaches are in the gym
18 during the tryouts, but as far as you
19 know, they aren't --- do not
20 participate in judging.

21 Is that correct?

22 A. Yes.

23 Q. Did you believe that you were
24 treated fairly in the tryouts during
25 May of 2018?

1 Q. Do you have Halloween Parades
2 up here?

3 A. There is, but we don't, like
4 cheer in it.

5 Q. Okay.

6 In addition to the two parades,
7 are there any other community events
8 that the cheerleading squad goes to?

9 A. I don't think so.

10 Q. When is practice during the
11 football season, for the cheerleading
12 squad?

13 A. Well, she schedules them like
14 whenever she has free time, Mrs.
15 Luchetta does. But normally, it would
16 be held on a Tuesday or a Thursday.

17 Q. So do you normally have two
18 practices a week during football
19 season?

20 A. When we can. It's hard to
21 during school because of volleyball.
22 Like it gets in the way.

23 Q. What ball?

24 I didn't hear you.

25 A. Volleyball.

1 Q. Okay.

2 A. And it gets in the way. So
3 she'll just like, reschedule them.

4 Q. So the general rule is two
5 times a week, unless there's a
6 conflict somewhere. And then it will
7 get rescheduled for some other time.

8 Is that accurate?

9 A. Normally, yes.

10 Q. How about basketball season?
11 Same thing?

12 A. I think.

13 Q. How about wrestling season,
14 which overlaps from what you've told
15 me, with basketball; right?

16 A. We would learn stuff for
17 wrestling at like practices during
18 basketball season.

19 Q. Okay.

20 A. Like we do the same cheers.

21 Q. And well how about practices?
22 Do --- do they try to have two a week?

23 A. I would assume they would try
24 to.

25 Q. And once wrestling is over, are

1 there any further practices the rest
2 of the year?

3 A. No. I don't think so.

4 Q. What is done to prepare for the
5 Memorial Day Parade if anything?

6 Is anything done to prepare for
7 the Memorial Day Parade?

8 A. No. 'Cause during the parade,
9 normally we just do a --- like we go
10 with the band and either we'll do a
11 dance or we'll just do like, certain
12 moves.

13 Q. When you say certain moves,
14 what do you mean?

15 A. We'll do like a pattern.
16 They'll go like, each and every other
17 person would like go up or something,
18 and then the other one would go down.
19 And that's basically what we would do.

20 Q. Okay.

21 So you don't need much more
22 practice for that?

23 A. No.

24 Q. Okay.

25 How about during the summers?

1 Are there any activities that the
2 cheerleading squad takes part in?

3 A. Cheer camp, but that's it.

4 Q. And what is cheer camp?

5 A. Varsity would go to a certain
6 school and just learn cheers.

7 Q. And which school do you go to?

8 A. I think this year was the first
9 year that we didn't. We went to
10 Shenandoah's School.

11 Q. And is that a required
12 activity, that you go to the cheer
13 camp?

14 A. It's not. Like if you have
15 something other --- like something
16 else to do, you can do that I guess.

17 Q. And when is the cross country
18 season? When does it start and end?

19 A. Practices start in the summer,
20 I think.

21 Q. And when does the season end?

22 A. I'm not sure.

23 Around like, maybe like the
24 beginning of June --- or November.

25 Q. Okay.

1 So you're still in the midst of
2 the season and it's not come to an end
3 yet?

4 A. Yes.

5 Q. Okay.

6 And you think it ends some time
7 next month?

8 A. Maybe. I don't know.

9 Q. Does cheerleading ever engage
10 in any activities on a Saturday,
11 unless Memorial --- well, Memorial Day
12 would be on Monday?

13 A. I don't think so.

14 Q. Homecoming, Friday night
15 usually?

16 A. Yeah.

17 Q. Does cheerleading engage in any
18 activities on a Sunday?

19 A. No.

20 Q. Where was the picture in
21 Exhibit D-1 taken?

22 A. The Cocoa Hut.

23 Q. And where's that located?

24 A. In Mahanoy City.

25 Q. And how do you actually get the

1 A. I don't remember.

2 Q. The rules contain attendance
3 rules. Take a look and read it. And
4 then tell me when you're finished
5 reading. I have some questions for
6 you.

7 ---

8 (WHEREUPON, WITNESS COMPLIES.)

9 ---

10 BY ATTORNEY LEVIN:

11 Q. Did you have a chance to read
12 them?

13 A. Yes.

14 Q. Do you understand them?

15 A. Yes.

16 Q. Do you think they're
17 reasonable?

18 A. Yes.

19 Q. Take a look at the academic
20 policy rules. Read them to yourself
21 and tell me when you're finished.

22 ---

23 (WHEREUPON, WITNESS COMPLIES.)

24 ---

25 THE WITNESS:

1 A. No.

2 Q. Okay.

3 Take a look at the ---. Read
4 the rules under uniforms. Tell me
5 when you're finished then. And then
6 go onto the second page of the
7 exhibit.

8 ---

9 (WHEREUPON, WITNESS COMPLIES.)

10 ---

11 BY ATTORNEY LEVIN:

12 Q. Did you read the rules
13 pertaining to uniforms?

14 A. Yes.

15 Q. Did you understand them?

16 A. Yes.

17 Q. Do you think they're reasonable
18 and appropriate?

19 A. Yes.

20 Q. Please take a look at the rules
21 under sportsmanship and
22 responsibility, slash, fundraising.
23 And tell me when you've finished
24 reading.

25 ---

1 (WHEREUPON, WITNESS COMPLIES.)

2 ---

3 BY ATTORNEY LEVIN:

4 Q. Did you finish reading?

5 A. Yes.

6 Q. Do you understand what the
7 rules say?

8 A. Yes.

9 Q. Do you think those rules are
10 reasonable and appropriate?

11 ATTORNEY HELPER:

12 I'm going to object to
13 form, but you can answer.

14 BY ATTORNEY LEVIN:

15 Q. Do you think those rules are
16 reasonable and appropriate?

17 A. I guess. Yes.

18 Q. And the last set of rules are
19 under the heading of technology.

20 Please read those and I'll ask you
21 some questions when you finish
22 reading.

23 ---

24 (WHEREUPON, WITNESS COMPLIES.)

25 ---

1 BY ATTORNEY LEVIN:

2 Q. Did you have a chance to read
3 those rules?

4 A. Yes.

5 Q. Did you understand them?

6 A. Somewhat.

7 Q. Excuse me?

8 A. Somewhat.

9 Q. Okay.

10 Do you think those rules are
11 reasonable and appropriate?

12 ATTORNEY HELPER:

13 I'll object to form
14 again, but you can answer.

15 THE WITNESS:

16 I guess.

17 BY ATTORNEY LEVIN:

18 Q. On the second page of that ---.

19 ---

20 (WHEREUPON, THERE WAS A BRIEF
21 INTERRUPTION IN THE PROCEEDINGS.)

22 ---

23 ATTORNEY LEVIN:

24 Let the record reflect
25 that the superintendent just

1 came into the deposition.

2 Do you know everybody?

3 DR. GREEN:

4 Yes. Well, I don't
5 know ---.

6 ATTORNEY HELFER:

7 Arleigh Helfer.

8 DR. GREEN:

9 Hi. Mrs. Green.

10 ATTORNEY LEVIN:

11 He's representing the
12 Plaintiffs, along with the
13 ACLU. He's from a different
14 firm.

15 DR. GREEN:

16 Okay.

17 ATTORNEY LEVIN:

18 Okay.

19 BY ATTORNEY LEVIN:

20 Q. Under the sportsmanship rules,
21 the first bullet point says, please
22 have respect for your school, coaches,
23 teachers, other cheerleaders and
24 teams, end of quote.

25 Did I read that sentence

1 correctly?

2 A. Yes.

3 Q. Do you understand what that
4 says?

5 A. I guess.

6 Q. Do you think that's reasonable
7 and appropriate?

8 A. I guess.

9 Q. The next sentence says,
10 remember you are respecting your
11 school --- representing your school
12 when at games, fundraisers and other
13 events.

14 Did I read that correctly?

15 A. Yes.

16 Q. Do you understand that rule?

17 A. Yes.

18 Q. Do you think that that's
19 accurate?

20 ATTORNEY HELPER:

21 I'll object to form.

22 You can answer.

23 THE WITNESS:

24 I guess.

25 BY ATTORNEY LEVIN:

1 Q. Then the next sentence says,
2 quote, good sportsmanship will be
3 enforced. This includes foul language
4 and inappropriate gestures, end of
5 quote.

6 Did I read that sentence
7 correctly?

8 A. Yes.

9 Q. Do you understand what that
10 says?

11 A. Yes.

12 Q. Do you think that's reasonable
13 and appropriate?

14 ATTORNEY HELPER:

15 And I'll object to form.

16 You can answer.

17 THE WITNESS:

18 I guess.

19 BY ATTORNEY LEVIN:

20 Q. Now, you would agree that the
21 word fuck is in violation of that
22 sentence; right?

23 ATTORNEY HELPER:

24 I'll object to form.

25 THE WITNESS:

1 I guess, when you're
2 representing your school.

3 BY ATTORNEY LEVIN:

4 Q. And you would agree that giving
5 the middle finger is an inappropriate
6 gesture?

7 Is that correct?

8 ATTORNEY HELPER:

9 And I'll object to form
10 again, but you can answer.

11 THE WITNESS:

12 Yes.

13 BY ATTORNEY LEVIN:

14 Q. Do you think it's a proper and
15 laudable goal for schools --- for
16 public schools, to teach students to
17 have respect for others?

18 A. Yes.

19 Q. Do you agree that it's a proper
20 and laudable goal for school districts
21 to hold students accountable for not
22 following applicable rules?

23 ATTORNEY HELPER:

24 I'm going to object to
25 form. Assumes the rules are

1 school ---?

2 ATTORNEY HELPER:

3 Objection. She was
4 still answering.

5 BY ATTORNEY LEVIN:

6 Q. I'm sorry, I thought ---.

7 A. I said it because I was mad.

8 Q. You were mad at ---?

9 A. Because I didn't get ---. I
10 didn't make it onto varsity.

11 Q. And you didn't make it on the
12 varsity by the school district.

13 Right?

14 A. Yes.

15 Q. So you were mad at not getting
16 on the school district's varsity team,
17 so you said fuck cheer.

18 Right?

19 A. Yes.

20 Q. Would you agree that it would
21 be reasonable for a person reading
22 your Snap to think that you were
23 referring to the school district's
24 cheerleading squad when you said fuck
25 cheer?

1 they get benched for it.

2 So ---.

3 BY ATTORNEY LEVIN:

4 Q. The uniforms, who pays for them
5 for cheerleading? Do you know?

6 A. I don't know.

7 Q. Do the --- does the school
8 district provide it to you?

9 A. I guess.

10 Q. Do you think that teaching
11 students that there are consequences
12 for crude and profane communications
13 on social media is a proper role for
14 school districts?

15 ATTORNEY HELPER:

16 I'm going to object to
17 the form. It's calling for an
18 opinion.

19 THE WITNESS:

20 I don't know.

21 BY ATTORNEY LEVIN:

22 Q. Do you know how your conduct
23 affected the other members of the
24 cheerleader squad last year?

25 ATTORNEY HELPER: